



भारत का राजपत्र The Gazette of India

असाधारण

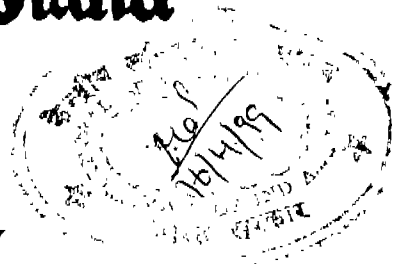
EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY



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NEW DELHI, TUESDAY, DECEMBER 15, 1998 / AGRAHAYANA 24, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 15-12-1998.

BILL No. 161 OF 1998

A Bill to provide for the establishment of an Authority to protect the interests of holders of insurance policies, to regulate, promote and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto and further to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General Insurance Business (Nationalisation) Act, 1972.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Insurance Regulatory Authority Act, 1998.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title,
extent and
commence-
ment.

2. (1) In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which the Authority is established under sub-section (1) of section 3;

(b) "Authority" means the Insurance Regulatory Authority established under sub-section (1) of section 3;

(c) "Chairperson" means the Chairperson of the Authority;

(d) "Fund" means the Fund constituted under sub-section (1) of section 16;

(e) "Interim Insurance Regulatory Authority" means the Insurance Regulatory Authority set up by the Central Government through Resolution No. 17(2)/94-Ins-V dated the 23rd January, 1996;

(f) "Intermediary or insurance intermediary" includes insurance brokers, reinsurance brokers, consultants, surveyors and loss assessors;

(g) "Member" means a whole time or a part time member of the Authority and includes the Chairperson;

(h) "notification" means a notification published in the Official Gazette;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "regulations" means the regulations made by the Authority.

(2) Words and expressions used and not defined in this Act but defined in the Insurance Act, 1938 or the Life Insurance Corporation Act, 1956 or the General Insurance Business (Nationalisation) Act, 1972 shall have the meanings respectively assigned to them in those Acts.

4 of 1938.
31 of 1956
57 of 1972

CHAPTER II

INSURANCE REGULATORY AUTHORITY

Establishment
and incorpora-
tion of
Authority.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority to be called the Insurance Regulatory Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time.

(4) The Authority may establish offices at other places in India.

Composition of
Authority.

4. The Authority shall consist of the following members, namely:—

(a) a Chairperson;

(b) not more than five whole-time members;

(c) not more than four part-time members,

to be appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which would, in the opinion of the Central Government, be useful to the Authority:

Provided that the Central Government while appointing the Chairperson and the whole-time members shall ensure that at least one person each is a person having knowledge or experience in life insurance, general insurance, or actuarial science respectively.

5. (1) The Chairperson and every other whole-time member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Tenure of office of Chairperson and other members.

Provided that no person shall hold office as such Chairperson after he has attained the age of sixty-five years:

Provided further that no person shall hold office as such whole-time member after he has attained the age of sixty-two years.

(2) A part-time member shall hold office for a term not exceeding five years from the date on which he enters upon his office.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a member may—

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provision of section 6.

6. (1) The Central Government may remove from office any member who—

Removal from office.

(a) is, or at any time has been, adjudged as insolvent;

(b) has become physically or mentally incapable of acting as a member;

(c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest.

(2) No such member shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

7. (1) **The salary and allowances payable to and other terms and conditions of service of the members other than part-time members shall be such as may be prescribed.**

Salary and allowances of Chairperson and members.

(2) **The part-time members shall receive such allowances as may be prescribed.**

(3) **The salary, allowances and other conditions of service of a member shall not be varied to his disadvantage after appointment.**

8. The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

Bar on future employment of members.

(a) any employment either under the Central Government or under any State Government; or

(b) any appointment in any company in the Insurance sector.

9. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Administrative powers of Chairperson.

10. (1) The Authority shall meet at such times and places, and shall observe such rules and procedures in regard to transaction of business at its meetings (including quorum at such meetings) as may be determined by regulations.

Meeting of Authority.

(2) The Chairperson, or if for any reason he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

Vacancies, etc.,
not to
invalidate
proceedings of
Authority.

11. No Act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Officers and
employees of
Authority.

12. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (1) above shall be governed by regulations made under this Act.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF INTERIM INSURANCE REGULATORY AUTHORITY

Transfer of
assets,
liabilities, etc.,
of Interim
Insurance
Regulatory
Authority.

13. On the appointed day,—

(a) all the assets and liabilities of the Interim Insurance Regulatory Authority shall stand transferred to, and vested in, the Authority;

Explanation.— The assets of the Interim Insurance Regulatory Authority shall be deemed to include all rights and powers, and all property, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in or arising out of such property as may be in the possession of the Interim Insurance Regulatory Authority and all books of account and documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Interim Insurance Regulatory Authority immediately before that day, for or in connection with the purpose of the said Regulatory Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the Interim Insurance Regulatory Authority immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Insurance Regulatory Authority immediately before that day may be continued or may be instituted by or against the Authority.

CHAPTER IV

DUTIES, POWERS AND FUNCTIONS OF THE AUTHORITY

Duties, powers
and functions
of Authority.

14. (1) Subject to the provisions of this Act and any other law for the time being in force, the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and reinsurance business.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include—

(a) to issue to the applicant a certificate of registration, to renew, modify, withdraw, suspend or cancel such registration;

(b) protection of the interests of the policy holders in matters concerning assigning of policy, nomination by policy holders, insurable interest, settlement of insurance claim, surrender value of policy, and other terms and conditions of contracts of insurance;

(c) specifying requisite qualifications and practical training for intermediary or insurance intermediaries and agents;

(d) specifying the code of conduct for surveyors and loss assessors;

(e) promoting efficiency in the conduct of insurance business;

(f) promoting and regulating professional organisations connected with the insurance and reinsurance business;

(g) levying fees and other charges for carrying out the purposes of this Act;

(h) calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organisations connected with the insurance business;

(i) control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938;

(j) prescribing the form and manner in which books of account shall be maintained and statement of accounts will be rendered by insurers and other insurance intermediaries;

(k) regulating investment of funds by insurance companies;

(l) regulating maintenance of margin of solvency;

(m) adjudication of disputes between insurers and intermediaries or insurance intermediaries;

(n) exercising such other powers as may be prescribed.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

15. The Central Government may, after due appropriation made by the Parliament by law in this behalf, make to the Authority grants of such sums of money as the Government may think fit for being utilised for the purposes of this Act.

Grants by
Central
Government.

16. (1) There shall be constituted a Fund to be called "The Insurance Regulatory Authority Fund" and there shall be credited thereto—

Fund.

(a) all Government grants, fees and charges received by the Authority;

(b) all sums received by the Authority from such other source as may be decided upon by the Central Government;

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(b) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

counts and
lit.

17. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the officers of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

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18. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

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thority.

19. (1) If at any time the Central Government is of the opinion—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government, may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person to be the Controller of Insurance under section 2B of the Insurance Act, 1938, if not already done:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the Controller of Insurance; and

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

20. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the insurance industry as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within nine months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities including the activities for promotion and development of the insurance business during the previous financial year.

(3) Copies of the reports received under sub-section (2) shall be laid, as soon as may be after they are received, before each House of Parliament.

21. The Chairperson, members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the India Penal Code.

Chairperson, members, officers and employees of Authority to be public servants.

22. No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or any member, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder:

Protection of action taken in good faith.

Provided that nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

23. (1) The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or officer of the Authority subject to such conditions, if any, as may be specified in the order such of its powers and functions under this Act as it may deem necessary.

Delegation.

(2) The Authority may by a general or special order in writing, also form Committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

24. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and other conditions of service of the members other than part-time members under sub-section (1) of section 7;

(b) the allowances to be paid to the part-time members under sub-section (2) of section 7;

(c) such other powers that may be performed by the Authority under clause (n) of sub-section (2) of section 14;

(d) the form of annual statement of accounts to be prepared by the Authority under sub-section (1) of section 17;

(e) the time at, the form and the manner in which returns and statements and particulars are to be furnished to the Central Government under sub-section (1) of section 20;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Power to make regulations.

25. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under sub-section (1) of section 10;

(b) the terms and other conditions of service of officers and other employees of the Authority under sub-section (2) of section 12; and

(c) any other matter which is to be or may be specified by regulations or in respect of which provision is to be made or may be made by regulations.

Rules and regulations to be laid before Parliament.

26. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

27. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to remove difficulties.

28. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment of Act 4 of 1938.

29. The Insurance Act, 1938 shall be amended in the manner specified in the First Schedule to this Act.

Amendment of Act 31 of 1956.

30. The Life Insurance Corporation Act, 1956 shall be amended in the manner specified in the Second Schedule to this Act.

Amendment of Act 57 of 1972.

31. The General Insurance Business (Nationalisation) Act, 1972 shall be amended in the manner specified in the Third Schedule to this Act.

THE FIRST SCHEDULE

(See section 29)

AMENDMENTS TO THE INSURANCE ACT, 1938

(4 OF 1938)

1. In the Act, except in clause (5B) of section 2 and section 2B, for "Controller" wherever it occurs, substitute "Authority" and such consequential changes as the rules of grammar may require shall also be made;

2. In sections 27, 27A, 27B, 31, 32A, 40A, 48B, 64F, 64G, 64-I, 64J, 64L, 64R, 64UC, 64UM, 113 and 115, for "Central Government" wherever they occur, substitute "Authority";

3. Section 2,—

(a) after clause (1), insert the following:—

'(1A) "Authority" means the Insurance Regulatory Authority established under sub-section (1) of section 3 of the Insurance Regulatory Authority Act, 1998';

(b) for clause (5B), substitute the following:—

'(5B) "Controller of Insurance" means the officer appointed by the Central Government under section 2B to exercise all the powers and to discharge the functions and to perform the duties of the Insurance Regulatory Authority under this Act or the Life Insurance Corporation Act, 1956 or the General Insurance Business (Nationalisation) Act, 1972 or the Insurance Regulatory Authority Act, 1998.';

(c) after clause (7), insert the following:—

'(7A) "Indian insurance company" means any insurer being a company—

(a) which is formed and registered under the Companies Act, 1956;

(b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed twenty six per cent. paid up capital in such Indian insurance company:

Provided that an aggregate share holding of equity shares not exceeding fourteen per cent. of the paid up share capital in an Indian insurance company may be held by foreign institutional investors, non-resident Indians, overseas body corporate and such equity share holdings of fourteen per cent. shall be excluded while calculating the twenty-six per cent. paid up share capital specified in clause (b);

(c) whose sole purpose is to carry on life insurance business, general insurance business or reinsurance business.

Explanation 1.—"foreign company" shall have the meaning assigned to it under clause (23A) of section 2 of the Income-tax Act, 1961.

Explanation 2.—"foreign institutional investors" means such investors as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation 3.—"non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115(c) of the Income-tax Act 1961.

31 of 1956.
57 of 1972.

1 of 1956.

43 of 1961.

43 of 1961.

Explanation 4.—"overseas corporate body" means any body corporate, whether incorporated or not, established under the laws of the country outside India in which not less than sixty per cent. of the controlling interest is held by the non-resident Indian and includes the trust formed and registered outside India in which not less than sixty per cent. of the beneficial interest is irrevocably held by non-resident Indian.

(d) in clause (14) for "section 114", substitute "this Act";

After section 2, insert the following:—

"2A. Words and expressions used and not defined in this Act but defined in the Life Insurance Corporation Act, 1956, the General Insurance Business (Nationalisation) Act, 1972, and the Insurance Regulatory Authority Act, 1998 shall have the meanings respectively assigned to them in those Acts."

31 of 1956

57 of 1972

5. Section 2B, for sub-section (1), substitute the following:—

"(1) If at any time, the Authority is superseded under sub-section (1) of section 19 of the Insurance Regulatory Authority Act, 1998, the Central Government may, by notification in the Official Gazette, appoint a person to be the Controller of Insurance till such time the Authority is reconstituted under sub-section (3) of section 19 of that Act."

6. Section 2C, in sub-section (1), after second proviso, insert the following:—

"Provided also that no insurer other than an Indian insurance company shall begin to carry on any class of insurance business in India under this Act on or after the commencement of the Insurance Regulatory Authority Act, 1998."

7. Section 3,—

(a) in sub-section (1), after the first proviso, insert the following:—

"Provided further that a person or insurer, as the case may be, carrying on any class of insurance business in India, on or before the commencement of the Insurance Regulatory Authority Act, 1998, for which no registration certificate was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he had made an application for such registration within the said period of three months, till the disposal of such application:

Provided also that any certificate of registration, obtained immediately before the commencement of the Insurance Regulatory Authority Act, 1998, shall be deemed to have been obtained from the Authority in accordance with the provisions of this Act."

(b) in sub-section (2),—

(i) in the opening portion, for "Every application for registration shall be accompanied by—", substitute the following:—

"Every application for registration shall be made in such manner as may be determined by regulations made by the Authority and shall be accompanied by—";

(ii) in clause (f), in the proviso, omit "and" occurring at the end;

(iii) for clause (g), substitute the following:—

"(g) such other documents as may be specified by regulations,";

(c) in sub-section (4),—

(i) in clause (f), for "of any rule or order made thereunder, or", substitute the following:—

Interpretation
of certain
words and
expressions.

"of any rule or any regulation or order made thereunder or, any direction issued under thereunder, or";

(ii) in clause (h), at the end insert "or";

(iii) after clause (h), insert the following:—

"(i) if the insurer makes default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory Authority Act, 1998, or

(j) if the insurer makes default in complying with, or acts in contravention of, any requirement of the Companies Act, 1956, the Life Insurance Corporation Act, 1956 or the General Insurance Business (Nationalisation) Act, 1972 or the Foreign Exchange Regulation Act, 1973.;"

(d) in sub-section (5C),—

(i) for "clause (h)", substitute "clause (h) or clause (i) or clause (j).";

(ii) for "any requirement of this Act or of any rule or order made thereunder," substitute the following:—

"any requirement of this Act or the Insurance Regulatory Authority Act, 1998 or of any rule or any regulations or any order made or any directions issued under those Acts,";

(e) after sub-section (5D), insert the following:—

"(5E) The Authority may by order, suspend or cancel any registration in such manner as may be determined by regulations made by the Authority :

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.";

8. Section 3A,—

(a) in sub-section (1), for "the 31st day of December, 1941", substitute the following:—

"the 31st day of March, after the commencement of the Insurance Regulatory Authority Act, 1998";

(b) in sub-section (2), for "prescribed fee", substitute "fee as determined by regulations made by the Authority,";

(c) in sub-section (3), for "prescribed fee", substitute "fee as determined by regulations made by the Authority,";

(d) in sub-section (4), for "prescribed fee", substitute "fee as determined by regulations made by the Authority, and";

9. Section 6A,—

(a) in sub-section (4), in clause (b),—

(I) in sub-clause (i), omit "and" occurring at the end,

(II) in sub-clause (ii), for "sanction of the Central Government has been obtained to the Transfer.", substitute "approval of the Authority has been obtained to the transfer,"; and

(III) after sub-clause (ii), insert the following:—

"(iii) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or

1 of 1956.
31 of 1956.
57 of 1972.
46 of 1973.

body corporate under the same management, jointly or severally exceeds one per cent. of paid up capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.

Explanation.—For the purpose of this sub-clause, the expressions "group" and "same management", shall have the same meanings respectively assigned to them in the Monopolies and Restrictive Trade Practices Act, 1969.;

54 of 1969

(b) in sub-section (11),—

(i) for "*Explanation 1*", substitute "*Explanation.*";

(ii) omit *Explanation 2*.

10. After section 6A, insert the following:—

"6AA. (1) No promoter shall at any time hold more than twenty-six per cent. or such other percentage as may be prescribed, of the paid up capital in an Indian Insurance company:

Provided that in a case where an Indian insurance company begins the business of life insurance, general insurance or reinsurance in which the promoters hold more than twenty-six per cent. of the paid up capital or such other excess percentage as may be prescribed, the promoters shall divest in a phased manner the share capital in excess of the twenty-six per cent. of the paid up capital or the such excess paid up capital as may be prescribed, after a period of six years from the date of commencement of the said business by such Indian insurance company or within such period as may be prescribed by the Central Government.

Explanation—For the removal of doubts it is hereby declared that nothing contained in proviso shall apply to the promoters being foreign company, foreign institutional investor, non resident Indian and overseas body corporate referred to in sub-clause (b) of clause (7A) of section 2.

(2) The manner and procedure for divesting the excess share capital under sub-section (1) shall be specified by regulations made by the Authority."

11. Section 11,—

(a) in sub-section (1), for "calender year", substitute "financial year";

(b) after sub-section (1), insert the following:—

"(1A) Notwithstanding anything contained in sub-section (1), every insurer, on or after the commencement of the Insurance Regulatory Authority Act, 1998, in respect of insurance business transacted by him and in respect of his shareholders' funds, shall at the expiration of each financial year prepare with reference to that year, a balance sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations made by the Authority.

(1B) Every insurer shall keep separate accounts relating to funds of share holders and policy holders."

12. Section 13,—

(a) in sub-section (1),—

(i) for "once at least in every three years", substitute "every year";

(ii) in the first proviso, for "not later than four years", substitute "not later than two years";

Manner of
divesting
excess share
holding by
promoter in
certain cases.

(iii) after the second proviso, insert the following:—

"Provided also that for an insurer carrying on life insurance business in India immediately before the commencement of the Insurance Regulatory Authority Act, 1998, the last date at which the first investigation after such commencement shall be caused by an actuary shall be the 31st day of March, 1999;"

(iv) after third proviso, insert the following:—

"Provided also that every insurer on or after the commencement of the Insurance Regulatory Authority Act, 1998, shall cause an abstract of the report of the actuary to be in the manner specified by regulations made by the Authority.";

(b) in sub-section (4), after proviso, insert the following:—

"Provided further that the statement referred to in sub-section (4) shall be appended in the form and in the manner specified by regulations made by the Authority.";

13. After section 27B,— insert the following:—

27C. No insurer shall directly or indirectly invest outside India, the funds of the policy holders.

Provisions of investment of funds outside India.

27D. (1) Without prejudice to anything contained in sections 27, 27A and 27B, the Authority may, in the interests of the policy holders, specify by regulations made by the Authority, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.

Manner and conditions of investment.

(2) The Authority may, after taking into account the nature of business and to protect the interests of the policy holders, issue to an insurer the directions relating to the time, manner, and other conditions of investment of assets to be held by him:

Provided that no directions under this sub-section shall be issued unless the insurer concerned has been given a reasonable opportunity of being heard."

14. Section 28A, in sub-section (1), for "31st day of December", substitute "31st day of March".

15. Section 28B, in sub-section (1), for "31st day of December", substitute "31st day of March".

16. Section 31B,—

(a) in sub-section (1), for "Central Government" at both the places where they occur, substitute "Authority";

(b) after sub-section (3), insert the following:—

"(4) Every direction under this section shall be issued by an order made by the Authority:

Provided that no order under this section shall be made unless the person concerned has been given an opportunity of being heard."

17. Section 33A, omit "Central Government or the".

18. Section 34H,—

(a) in sub-section (1),—

(i) for "Controller", substitute, "Chairperson of the Authority";

(ii) for "an Assistant Controller of Insurance", substitute "an officer authorised by the Authority";

(b) in sub-sections (5) and (7), for "Controller" wherever it occurs, substitute "the Chairperson of the Authority".

19. Section 35, —

(a) in sub-section (1), for "sanctioned by the Controller", substitute "approved by the Authority";

(b) in sub-section (3),—

(i) in the first paragraph, for "to sanction any such scheme", substitute "to approve any such scheme";

(ii) in the second paragraph, for "the amalgamation or transfer if sanctioned", substitute "the amalgamation or transfer if approved".

20. Section 36,—

(a) in sub-section (1), for "may sanction the arrangement", substitute "may approve the arrangement";

(b) in sub-section (2), —

(i) for "the insurers concerned in the amalgamation, the Controller may sanction", substitute "the insurers concerned in the amalgamation, the Authority may approve";

(ii) for "contracts as sanctioned by the Controller", substitute "contracts as approved by the Authority".

21. Section 37, in clause (c), for "scheme sanctioned", substitute "scheme approved".

22. Section 42A, in sub-section (1),—

(a) for "Controller or an officer authorised by him", substitute "Authority or an officer authorised by it";

(b) for "an application to him", substitute "an application to it";

23. After section 42C, insert the following:—

"42D. (1) The Authority or an officer authorised by it in this behalf shall, in the manner determined by regulations and on payment of the fees determined by regulations made by the Authority issue, to any person making an application in the manner determined by regulations, a licence to act as an intermediary or an insurance intermediary under this Act:

Provided that—

(a) in the case of an individual, he does not suffer from any of the disqualifications mentioned in sub-section (4) of section 42, or

(b) in the case of a company, firm, any of its directors or partners does not suffer from any of the said disqualifications and a certificate to act as an intermediary or an insurance intermediary shall be issued to him.

(2) A licence issued under this section shall entitle the holder thereof to act as an intermediary or insurance intermediary for any insurer.

(3) A licence issued under this section, shall remain in force for a period of three years only from the date of issue, but shall, if the applicant, being an individual does not, or being a company or firm any of its directors or partners does not suffer from any of the disqualifications mentioned in clauses (b), (c) and (d) of sub-section (4) of section 42 and the application for renewal of licences reaches the issuing

Issue of licence
to intermediary
or insurance
intermediary.

authority at least thirty days before the date on which the licence ceases to remain in force, be renewed for a period of three years at any one time on payment of the fee determined by regulations made by the Authority and additional fee for an amount determined by the regulations not exceeding one hundred rupees by way of penalty, if the application for renewal of the licence does not reach the issuing authority at least thirty days before the date on which the licence ceases to remain in force.

(4) No application for renewal of a licence under this section shall be entertained if the application does not reach the issuing authority before the licence ceases to remain in force:

Provided that the Authority may, if satisfied that undue hardship would be caused otherwise, accept any application in contravention of this sub-section on payment by the applicant of a penalty of seven hundred and fifty rupees.

(5) The disqualifications above referred to shall be the following:—

(a) that the person is a minor;

(b) that he is found to be of unsound mind by a court of competent jurisdiction,

(c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating (or forgery or an abetment of or attempt to commit any such offence) by a court of competent jurisdiction

Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(d) that in the course of any judicial proceedings relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud dishonesty or misrepresentation against an insurer or an insured;

(e) that he does not possess the requisite qualifications and practical training for a period not exceeding twelve months, as may be specified by the regulations made by the Authority in this behalf;

(f) that he has not passed such examinations as may be specified by the regulations made by the Authority in this behalf.

(6) If it be found that an intermediary or an insurance intermediary suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the Authority shall, and if the intermediary or insurance intermediary has knowingly contravened any provision of this Act may, cancel the licence issued to the intermediary or an insurance intermediary under this section.

(7) The Authority may issue a duplicate licence to replace a licence lost, destroyed or mutilated, on payment of such fee, as may be determined by regulations made by the authority";

(8) Any person who acts as an intermediary or an insurance intermediary without holding a licence issued under this section to act as such shall be punishable with fine and any insurer or any person acting on behalf of an insurer, who appoints as an intermediary or an insurance intermediary any person not licensed to act such or transacts any insurance business in India through any such person, shall be punishable with fine.

(9) Where the person contravening sub-section (7) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with fine.

24. Section 64UA, in sub-section (1), in sub-clause (a), for "Controller of Insurance" substitute "Chairperson of the Authority".

25. Section 64UB, in sub-section (5), for "Controller of Insurance", substitute "Chairperson of the Authority".

26. Section 64UC, in sub-section (1), in the proviso, for "the Controller may, with the previous approval of the Central Government" substitute "the Authority may";

27. Section 64UD, in sub-section (1), for "Controller of Insurance" substitute "Chairperson of the Authority".

28. Section 64UJ, in sub-section (5), for "Central Government" wherever it occurs, substitute "Authority".

29. Section 64UM,—

(a) in sub-section (1),—

(i) in clause (C) for "as may be prescribed", substitute "as may be determined by regulation";

(ii) in clause (D), in sub-clause (i),—

(A) for item "(a) has been in practice as a surveyor or loss assessor on the 26th day of October 1968, or," substitute "(a) has been in practice as a surveyor or loss assessor on the date of commencement of the Insurance Regulatory Authority Act, 1998, or";

(B) in item (f), for "prescribed" substitute "specified by regulations made by the Authority";

(b) after sub-section (1), insert—

"(1A) Every surveyor and loss assessor shall comply with the code of conduct in respect of their duties, responsibilities and other professional requirements as may be specified by regulations made by the Authority."

30. Section 70, in sub-section (1), for "the Controller a certificate of registration", substitute "the Authority, before the date of commencement of the Insurance Regulatory Authority Act, 1998, a certificate of registration";

31. Section 95, in sub-section (1), for "In this Part—", substitute, "In this Part before the date of commencement of the Insurance Regulatory Authority Act, 1998,—";

32. Section 101A,—

(a) in sub-section (1), for "the Central Government", substitute "the Authority with the previous approval of the Central Government";

(b) in sub-section (2), for "the Central Government", substitute "the Authority".

33. Section 101B, in sub-section (1), for "the Central Government", substitute "the Authority with the previous approval of the Central Government".

34. Sections 110A, 110B and 110C for "Controller", wherever it occurs, substitute "Chairperson of the Authority";

35. Section 110G, for "Controller" at both the places where it occurs, substitute "Chairperson of the Authority".

36. Section 110H, in sub-section (1), for "under sections", substitute "under section 27D,";

37. After section 114, insert the following:—

"114 A. (1) The Authority may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder, to carry out the provisions of this Act.

Power of
Authority to
make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following, namely:—

- (a) the matters relating to registration of insurers under section 3;
- (b) the manner of suspension or cancellation of registration under sub-section (5E) of section 3;
- (c) the matters relating to renewal of registration under section 3A;
- (d) the manner and procedure for divesting excess share capital under sub-section (2) of section 6AA;
- (e) the preparation of balance sheet, profit and loss account and a separate account of receipts and payments and revenue account under sub-section (1A) of section 11;
- (f) the manner in which an abstract of the report of the actuary to be specified under the second proviso to sub-section (1) of section 13;
- (g) the form and the manner in which the statement referred to in sub-section (4) of section 13 shall be appended;
- (h) the time, manner and the other conditions of investment of assets held by an insurer under sub-sections (1) and (2) of section 27D;
- (i) the manner and the fee for issue of a licence to an intermediary or an insurance intermediary under sub-section (1) of section 42D;
- (j) the fee to be determined for renewal of licence of insurance intermediaries under sub-section (3) of section 42D;
- (k) the period for specifying the requisite qualifications and practical training of intermediaries or insurance intermediaries under sub-section (5) of section 42D;
- (l) the matter relating to issue of duplicate licence under sub-section (7) of section 42D;
- (m) the matter relating to licensing of surveyors and loss assessors, their duties, responsibilities and other professional requirements under section 64UM;
- (n) the matter relating to reinsurance under sections 101A and 101B;
- (o) matters relating to redressal of grievances of policy holders to protect their interest and to regulate, promote and ensure orderly growth of insurance industry;

(p) any other matter which is to be or may be specified by regulations of in respect of which provisions is to be made or may be, made by regulations.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

38. Section 116A, for "Central Government", at both the places where they occur, substitute "Central Government, before the date of commencement of the Insurance Regulatory Authority Act, 1998".

THE SECOND SCHEDULE

(See section 30)

AMENDMENT TO THE LIFE INSURANCE CORPORATION ACT, 1956

(31 OF 1956)

1. In the Act, for "Controller" wherever it occurs, substitute "Authority".
2. After section 30, insert the following:—

"30A. Notwithstanding anything contained in this Act, the exclusive privilege of carrying on life insurance business in India by the Corporation shall cease on and from the commencement of the Insurance Regulatory Authority Act, 1998 and the Corporation shall, thereafter, carry on life insurance business in India in accordance with the provisions of the Insurance Act, 1938."

4 of 1938.

Exclusive
privilege of
Corporation to
cease.

THE THIRD SCHEDULE*(See section 31)***AMENDMENT TO THE GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972****(57 OF 1972)**

After section 24, insert the following:—

"24A. Notwithstanding anything contained in this Act, the exclusive privilege of the Corporation and the acquiring companies of carrying on general Insurance business in India shall cease on and from the commencement of the Insurance Regulatory Authority Act, 1998 and the Corporation and the acquiring companies shall, thereafter, carry on general insurance business in India in accordance with the provisions of the Insurance Act, 1938."

Exclusive
privilege of
Corporation
and acquiring
companies to
cease.

STATEMENT OF OBJECTS AND REASONS

The insurance industry requires a high degree of regulation. The Insurance Act, 1938 provides for the institution of the Controller of Insurance to act as a strong and powerful supervisory and regulatory authority with powers to direct, advice, caution, prohibit, investigate, inspect, prosecute, search, seize, fine, amalgamate, authorize, register and liquidate insurance companies. However, after the nationalisation of the life insurance industry in 1956 and the general insurance industry in 1972, the role of the Controller of Insurance diminished in significance over a period of time.

2. In April, 1993, the Government set up a high-powered committee headed by Shri R.N. Malhotra, former Governor, Reserve Bank of India, to examine the structure of the insurance industry and recommend changes to make it more efficient and competitive keeping in view the structural changes in other parts of the financial system of the economy. The Committee which submitted its report on 7th January, 1994 felt that the insurance regulatory apparatus should be activated even in the present set up of nationalised insurance sector and recommended, *inter alia*, the establishment of a strong and effective Insurance Regulatory Authority (IRA) in the form of a statutory autonomous board on the lines of Securities and Exchange Board of India.

3. The recommendations of the Committee were discussed at different forums including the Consultative Committee of the Parliament attached to the Ministry of Finance, managements of Life Insurance Corporation, General Insurance Corporation and its subsidiary companies, trade unions, Chambers of Commerce and consumer interest groups. The recommendation to set up an autonomous Insurance Regulatory Authority found wide support. In view of the general support received, the then Government decided to bring in a legislation to establish an independent regulatory authority for the insurance industry. Since enacting legislation for creating the Insurance Regulatory Authority would take time, the then Government constituted through a Government resolution an Interim Insurance Regulatory Authority pending the enactment of a comprehensive legislation. The Chairman, Insurance Regulatory Authority has been notified as Controller of Insurance under the Insurance Act, 1938. The said Interim Regulatory Authority at present is discharging certain functions and exercising powers of the Controller.

4. In pursuance of the Budget Speech in July, 1996, the then Government introduced on the 20th December, 1996, the Insurance Regulatory Authority Bill, 1996 for establishment of an Authority to protect the interests of holders of insurance policies and to regulate, promote and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto. The Bill was referred to the Department related standing Committee on the Ministry of Finance. The Committee submitted its report on 9th May, 1997.

However, the said Bill incorporating therein the recommendations of the said standing Committee was taken for consideration but could not be passed and the Bill was withdrawn by the then Government.

5. In the Budget Speech, 1998 the Finance Minister announced that along with the reforms of the Banking Sector, it is necessary to move forward with reforms in insurance which has hitherto been a public sector monopoly. In order to provide better insurance coverage to our citizens and also to augment the flow of long term resources for financing infrastructure, it has been proposed by the Government to open the insurance sector to competition from private Indian companies. The Insurance Regulatory Authority will also be converted into a statutory body. Accordingly, it is now proposed to give a statutory character to the Interim Insurance Regulatory Authority by enacting a legislation in this regard and amend section 30 of the Life Insurance Corporation Act, 1956 and section 24 of General Insurance Business (Nationalisation) Act, 1972 to permit the entry of private Indian companies into the insurance sector and to make certain consequential amendments to the Insurance Act, 1938.

6. The proposed Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract. It will consist of a Chairperson and other members not exceeding nine in number, of whom not more than five shall serve full time, to be appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience of life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which in the opinion of the Central Government shall be useful to the Authority. The Chairperson and other whole-time Members shall hold office for a term of 5 years or until the age of 65 years in the case of Chairperson and 62 years in the case of other whole-time Members, whichever is earlier and they shall be eligible for re-appointment subject to age consideration. A part-time Member shall hold office for a term not exceeding 5 years.

7. The duties, powers and functions of Authority, *inter alia*, are:—

(a) to issue to the applicant a certificate of registration, to renew, modify, withdraw, suspend or cancel such registration;

(b) protection of the interests of the policy holders in matters concerning assigning of policy, nomination by policy holders, insurable interest, settlement of insurance claim, surrender value of policy, and other terms and conditions of contracts of insurance;

(c) specifying requisite qualifications and practical training for insurance intermediaries and agents;

(d) specifying the code of conduct for surveyors and loss assessors;

(e) promoting efficiency in the conduct of insurance business;

(f) promoting and regulating professional organisations connected with the insurance and reinsurance business;

(g) levying fees and other charges for carrying out the purposes of this Act;

(h) calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, insurance intermediaries and other organisations connected with the insurance business;

(i) control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938;

(j) prescribing the form and manner in which books of account shall be maintained and statement of accounts will be rendered by insurers and insurance intermediaries;

(k) regulating investment of funds by insurance companies;

(l) regulating maintenance of margin of solvency;

(m) adjudication of disputes between insurers and intermediaries;

(n) exercising such other powers as may be prescribed.

8. The powers and functions mentioned above would enable the Authority to perform the role of an effective watchdog and regulator for the insurance sector in India. To enable the Authority to function in a truly independent manner and discharge its assigned responsibilities effectively, it is proposed to vest the Authority with statutory status.

9. The Bill seeks to achieve the above objects.

Notes on Clauses

Clause 2 defines the various expressions occurring in the Bill.

Clause 3 provides for the establishment of the Insurance Regulatory Authority by the Central Government as a body corporate. The head office of the Authority shall be at such place as the Central Government may decide from time to time.

Clause 4 provides that the Authority shall consist of a Chairperson, not more than five whole-time members and not more than four part-time members, to be appointed by the Central Government.

Clause 5 provides that the Chairperson and other whole-time members shall hold office for a term of five years or until the age of 65 years in the case of Chairperson and 62 years in the case of other whole-time members, whichever is earlier, and a part-time member shall hold office for a term not exceeding five years.

Clause 6 provides that the Central Government may, after giving a reasonable opportunity of being heard in the matter, remove from office the Chairperson and members of the Authority in certain circumstances.

Clause 7 provides that the salary, allowances and other terms and conditions of service of the Chairperson and whole-time members and allowances to part-time members will be prescribed by the Central Government and that they shall not be varied to their disadvantage, after appointment.

Clause 8 provides that the Chairperson and members shall be ineligible for appointment in Central or State Governments or any private company in the insurance sector for a period of two years from the date on which they cease to hold office as such.

Clause 9 provides that the Chairperson shall have the powers of general superintendence and directions of all administrative matters of the Authority.

Clause 10 contains detailed provisions regarding conduct of the meetings of the Authority.

Clause 11 provides for certain conditions which will not invalidate the proceedings of the Authority.

Clause 12 empowers the Authority to appoint officers and other employees and determine their terms and conditions of service through regulations.

Clause 13 provides for transfer of assets, liabilities, etc., of the Interim Insurance Regulatory Authority to the Insurance Regulatory Authority.

Clause 14 provides that the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and prescribes its specific powers and functions.

Clause 15 provides for grants to the Authority by the Central Government.

Clause 16 provides for constitution of the Insurance Regulatory Authority Fund and crediting thereto all Government grants, fees and charges received by the Authority and its appropriation for making payments.

Clause 17 provides that the Authority shall maintain its accounts in the form prescribed by the Central Government in consultation with the Comptroller and Auditor General of India and that the accounts will be audited by the Comptroller and Auditor General of India with the same rights and privileges as in the case of audit of Government accounts. It also provides that the accounts of the Authority as certified by the Comptroller and Auditor General of India together with the audit report thereon shall be laid before each House of the Parliament every year.

Clause 18 provides that the Authority shall be bound by the directions of the Central Government on questions of policy and that the decisions of the Central Government, whether a question is one of policy or not, shall be final.

Clause 19 provides that the Central Government may, by notification and for reasons specified therein supersede the Authority, for a period not exceeding six months, in certain circumstances and during the period of supersession appoint a person to act as the Controller of Insurance under the Insurance Act, 1938. It also provides for reconstitution of the Authority before the expiry of the period of supersession and that a copy of the notification for supersession and a full report on the action taken shall be laid before each House of Parliament.

Clause 20 provides for furnishing of returns, etc., by the Authority to the Central Government.

Clause 21 provides that the Chairperson, members, officers and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 22 provides for usual provisions relating to the protection of action taken in good faith.

Clause 23 provides for delegation of powers of the Authority.

Clause 24 confers on the Central Government the power to make rules for carrying out the provisions of the Bill.

Clause 25 confers on the Authority the power to make regulations consistent with the provisions of the Bill.

Clause 26 provides that the rules made by the Central Government and regulations made by the Authority shall be laid before each House of Parliament.

Clause 27 provides that the provisions of this Bill shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

Clause 28 seeks to empower the Central Government to remove difficulties which may arise in giving effect to the provisions of the Bill.

Clause 29 seeks amendments of certain provisions of the Insurance Act, 1938 in the manner as set out in the First Schedule to the Bill.

The amendments to the Insurance Act, 1938 are consequential in nature to empower the Insurance Regulatory Authority to effectively regulate, promote and ensure orderly growth of the insurance industry. The Amendments inter alia provide for the substitution of the word "Controller" by the word "Authority" and substitution of the word "Central Government" by the word "Authority" in certain sections of the Insurance Act, 1938.

It also provides for certain definitions including definition of an Indian insurance company.

The other consequential amendments relate to empowering the authority in respect of registration of insurers, percentage of equity capital to foreign company, investment provisions, regulation of licence to intermediaries or insurance intermediaries and power of the Authority to make regulations.

Clause 30 seeks to amend section 30 of the Life Insurance Corporation Act, 1956, in the manner as set out in the Second Schedule.

The amendment provides that the exclusive privilege of the Life Insurance Corporation shall cease so as to enable other Indian insurance companies to do life insurance business.

Clause 31 seeks to amend section 24 of the General Insurance Business (Nationalisation) Act, 1972 in the manner as set out in the Third Schedule.

The amendment provides that the exclusive privilege of the General Insurance Corporation and the four subsidiary companies shall cease so as to enable other Indian insurance companies to do non-life insurance business.

FINANCIAL MEMORANDUM

The Central Government proposes to set up an independent statutory Insurance Regulatory Authority under clause 3 of the Bill. Recurring expenditure towards salary and allowances, etc., of the Chairperson and other members under clause 7 will be of the order of Rs. 62 lakhs per annum and the officers and employees of the Authority under clause 12 will be of the order of Rs. 160 lakhs per annum. Other recurring expenditures by way of rent, maintenance, training, etc., will be of the order of Rs. 200 lakhs per annum. Non-recurring expenditure by way of purchase of accommodation, furniture and fixtures, office equipment, vehicle, etc., will be approximately of the order of Rs. 855 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill confers powers upon the Central Government to supersede, by notification, the Authority in the circumstances specified in that clause. This clause further requires that a copy of such notification and a full report of any action taken under this clause and the circumstances leading to such supersession shall be laid before each of the House at the earliest.

2. Clause 24 of the Bill empowers the Central Government to make rules to provide, *inter alia*, for the salary and allowances payable to and other conditions of service of the Chairperson and the other members, the additional powers and functions that may be performed by the Authority, the form of annual statement of accounts to be prepared by the Authority, the forms and manner in which the returns and statements and particulars are to be prepared and to be furnished by the Central Government, and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

3. Clause 25 of the Bill empowers the Authority to make regulations to provide for, *inter alia*, the time and places of meeting of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of the business, and the terms and conditions of service of officers and employees of the Authority.

4. Clause 29 of the Bill proposes to amend the Insurance Act, 1938 which, *inter alia*, proposes to insert section 6AA in that Act. The said section 6AA proposes to confer power upon the Central Government to prescribe the percentage of the paid up equity capital in excess of twenty-six per cent, which the promoter shall at any time hold in an Indian insurance company. This clause further proposes to confer a power upon the Central Government to prescribe the period within which such excess paid up capital shall be divested by the promoters of such Indian insurance company.

This Clause further proposes to amend the Insurance Act, 1938 which, *inter alia*, empowers the Authority to make regulations in respect of the matter relating to registration of insurers under section 3; the manner of suspension or cancellation of registration under sub-section (5E) of section 3; the matters relating to renewal of registration under section 3A; the manner and procedure for divesting excess share capital under sub-section (2) of section 6AA; preparation of balance-sheet, profit and loss account and a separate account of receipts and payments and revenue account under sub-section (1A) of section 11; the manner in which an abstract of the report of the actuary to be specified under the second proviso to sub-section (1) of section 13; the form and the manner in which the statement referred to in sub-section (4) of section 13 shall be appended; the time, manner and the other conditions of investment of assets held by an insurer under sub-sections (1) and (2) of section 27D; the manner in which and the fee for issue of a licence to an intermediary or an insurance intermediary under sub-section (1) of section 42D; the fee to be determined for renewal of licence of insurance intermediaries under sub-section (3) of section 42D; the period for specifying the requisite qualifications and practical training of intermediaries or insurance intermediaries under sub-section (5) of section 42D; the matter relating to issue of duplicate licence under sub-section (7) of section 42D; the matter relating to licensing of surveyors and loss assessors, their duties, responsibilities and other professional requirements under section 64UM; the matter relating to reinsurance under sections 101A and 101B; matters relating to redressal of grievances of policy holders to protect their interests and to regulate, promote and ensure orderly growth of industry; any other matter which is to be or may be specified by regulations or in respect of which provisions is to be made or may be, made by regulations.

5. The rules and regulations made shall be laid, as soon as may be, after they are made, before each House of Parliament.

6. The matter in respect of which rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, normal in character.

S. GOPALAN,
Secretary-General.

